

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order No. 2021-45-Crim

RELEASE OF PERSONS ISSUED A NOTICE TO APPEAR

(a) Pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice.

(b) Florida Rule of General Practice and Judicial Administration 2.215(b)(3) states the Chief Judge shall “develop an administrative plan” and “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”

(c) A Notice to Appear (NTA) is a written order issued by a law enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(d) Florida Rule of Criminal Procedure 3.125 authorizes the arresting or booking officer to issue a NTA to a person arrested for a first or second degree misdemeanor or violation, or violation of a municipal ordinance, subject to certain conditions.

(e) In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of General Practice and Judicial Administration 2.215, it is hereby **ORDERED, effective October 1, 2021:**

(1) Except as provided herein, any law enforcement officer with jurisdiction in Broward County, Florida is authorized to issue a NTA to a person arrested for a first or second degree misdemeanor, or a violation of a municipal ordinance, subject to the considerations set forth in Fla. R. Crim. P. 3.125 and this Administrative Order.

(2) A NTA shall not be issued to any person who:

(a) is arrested for misdemeanor driving under the influence (DUI), stalking, violation of a court order, indecent exposure (excluding public

urination), battery, domestic violence, dating violence, or animal cruelty;

- (b) has pending charges and has been released from custody on an existing bond or personal recognizance;
- (c) has an outstanding warrant or capias; or
- (d) is currently subject to conditions of probation or community control.

(3) Issuance of a NTA by Arresting Officer. If a person is arrested for an offense declared to be a misdemeanor of the first or second degree, or is arrested for violation of a municipal or county ordinance triable in Broward County, and demand to be taken before a judge is not made, a NTA may be issued by the arresting officer unless one or more of the considerations in Florida Rule of Criminal Procedure 3.125(b) are present:

- (a) the accused fails or refuses to sufficiently identify himself or herself or supply the required information;
- (b) the accused refuses to sign the notice to appear;
- (c) the officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to the accused or others;
- (d) the accused has no ties with the jurisdiction reasonably sufficient to assure the accused's appearance or there is substantial risk that the accused will refuse to respond to the notice;
- (e) the officer has any suspicion that the accused may be wanted in any jurisdiction; or
- (f) it appears that the accused previously has failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

(4) Issuance of a NTA by Booking Officer. If the arresting officer does not issue a NTA because of one of the exceptions listed above, and takes the arrestee to any Broward County jail, the booking officer may issue a NTA if the booking officer determines that there is a likelihood that the arrestee will appear as directed, based on a reasonable investigation of the considerations listed in Florida Rule of Criminal Procedure 3.125(c). In making the decision whether to issue a NTA, the booking officer may consider any of the following:

- (a) residence and length of residence in the community;
- (b) family ties in the community;
- (c) employment record;

- (d) character and mental condition;
- (e) past record of convictions; or
- (f) past history of appearance at court proceedings.

(5) The booking officer may refer to the arrestee's pretrial assessment, if available, to assist in making a determination whether to issue a NTA.

(6) All NTAs must substantially comply with the format set forth in Fla. R. Crim. P. 3.125(l), and any person released shall be provided information on the time, date, and location of their next court appearance.

(7) Prior to issuing a NTA to an arrestee, the arresting or booking officer shall complete a NCIC and FCIC report.

(8) Nothing in this Administrative Order shall prevent the booking officer from exercising their discretion to refuse to issue a NTA and hold the accused for a First Appearance hearing.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida on this 1st day of September, 2021.

/s/ Jack Tuter
Jack Tuter, Chief Judge